

REMARKS

In response to the Office Action of September 13, 2006, Applicant asks that all claims be allowed in view of the amendment to the claims and the following remarks. Claims 1-40 are pending in this application, of which claims 1 and 35-39 are independent. Claims 1-5, 7, 21, and 26-39 have been amended and claim 40 has been added. Support for the amendments and new claim may be found at, for example, pages 27-30 of the specification and Figures 9 and 10.

Rejection under 35 U.S.C. § 101

Claims 38 and 39 have been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The claims have been amended per the Examiner's suggestion. Applicant has amended claims 38 and 39 to recite a "computer program being stored on a tangible computer readable medium."

Rejection under 35 U.S.C. § 102

Claims 1, 11, and 35-39 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Kurland et al. (U.S. Patent No. 4,603,232). Applicant has amended the claims to obviate the § 102(b) rejection.

Claim 1 recites a method of polling interactive television viewers. A first pool of two or more entry elements is identified. Subsets of entry elements are defined by selecting entry elements. At least one polling request is configured. Each polling request includes one of the subsets of entry elements, and each polling request prompting a viewer to evaluate at least some of the entry elements. A first evaluation round that includes at least the polling request is prepared. One or more set top systems of one or more interactive televisions are connected to. The first evaluation round is sent to the one or more set top systems of the one or more interactive television viewers. Responses to the first evaluation round are received. A second pool of revised elements that reflect more popular elements as determined in the first evaluation round is identified such that the second pool includes fewer elements than the first pool. Subsets of revised elements are defined by selecting revised elements. At least one second polling

request is configured, each second polling request includes one of the subsets of revised elements, and each second polling request prompting a viewer to evaluate the revised elements selected from the second pool is configured. A subsequent evaluation round that includes at least the second polling request is prepared.

With respect to claim 1, Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection because Kurland fails to describe at least “identifying a second pool of revised elements that reflect more popular elements as identified in the first evaluation round such that the second pool includes fewer elements than the first pool” or “configuring at least one second polling request, each second polling request including one of the subsets of revised elements, and each second polling request prompting a viewer to evaluate the revised elements selected from the second pool,” as recited by amended claim 1.

Kurland is directed towards a method for electronically disseminating marketing surveys to panelists. See Kurland at col. 3, lines 47-55. The questionnaire may be presented on a video display to the panelists who then enter responses using a keyboard or optical wand. See Kurland at col. 3, lines 26-29). The responses to the surveys are transmitted to a central data processor via a communications link and processed. See Kurland at col. 3, lines 62-65. Kurland does not indicate that elements deemed to be the more popular elements, as identified in an earlier survey, will be used again in a subsequent survey. Thus, Kurland does not describe “identifying a second pool of revised elements that reflect more popular elements as identified in the first evaluation round such that the second pool includes fewer elements than the first pool” or “configuring at least one second polling request, each second polling request including one of the subsets of revised elements, and each second polling request prompting a viewer to evaluate the revised elements selected from the second pool,” as recited by amended claim 1.

Furthermore, like Kurland, Shah-Nazaroff also fails to describe the subject matter of amended claim 1. Shah-Nazaroff describes a method of collecting viewer feedback regarding a programming selection and determining a rating for the programming based on the feedback. See Shah-Nazaroff at paragraph 0009. The Office Action asserts that Figure 5 of Shah-Nazaroff describes “determining the most selected element in a first polling request and a most selected

element in the second polling request.” See Office Action at page 14, lines 16-17. However, Figure 5 of Shah-Nazaroff shows the results of one poll that queried viewers on whether their approval of a particular political figure increased or decreased. See Shah-Nazaroff at Fig.4 and Fig. 5 (showing the increase and decrease in President Clinton’s approval rating according to viewers of a segment of the President’s address). Thus, Shah-Nazaroff also does not describe “identifying a second pool of revised elements that reflect more popular elements as identified in the first evaluation round such that the second pool includes fewer elements than the first pool” or “configuring at least one second polling request, each second polling request including one of the subsets of revised elements, and each second polling request prompting a viewer to evaluate the revised elements selected from the second pool,” as recited by amended claim 1.

The significance of these differences is important in a variety of contexts. For example, an interactive television content provider may wish to gauge the relative popularity of different television shows. The method described above may be used to give the content provider more information about the relative popularity of television shows than a poll that merely asks viewers to select their favorite show from among the entire group. For example, this method allows the content provider to determine whether viewers’ preferences for one show over another change as the field of shows becomes smaller or as the show is compared to different shows.

Independent claims 35-39 recite limitations similar to those discussed above with respect to claim 1. As such, the rejection of these claims should be withdrawn for the reasons provided above.

Furthermore, like Kurland and Shah-Nazaroff, Lett (U.S. Patent No. 5,539,822), Hattori et al. (U.S. Patent No. 5,719,619), Frost (U.S. Patent No. 5,041,972), Belmont (U.S. Patent No. 5,819,156), Inaba (U.S. Patent No. 5,880,789), McKissick et al. (U.S. Patent Publication 2006/019066), Aras et al. (U.S. Patent No. 5,872,588), and Bejan et al. (U.S. Patent No. 5,465,384) also fail to describe “identifying a second pool of revised elements that reflect more popular elements as identified in the first evaluation round such that the second pool includes fewer elements than the first pool” or “configuring at least one second polling request, each second polling request including one of the subsets of revised elements, and each second polling

Applicant : William Houghton
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request prompting a viewer to evaluate the revised elements selected from the second pool," as recited by amended claim 1. Accordingly, the rejections based on these references also should be withdrawn.

All claims are believed to be in condition for allowance.

A \$50.00 excess claim fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account 06-1050.

Respectfully submitted,

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Thomas A. Rozylowicz
Reg. No. 50,620

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331